

Danielle E. Karst (D.C. Bar No. 481881)
Timothy J. Mulreany (Maryland Bar No. 8812160123)
COMMODITY FUTURES TRADING COMMISSION
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581
Telephone: (202) 418-6158 (Karst)
Telephone: (202) 418-5306 (Mulreany)
Facsimile: (202) 418-5523
dkarst@cftc.gov
tmulreany@cftc.gov

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

DAVID GILBERT SAFFRON
a/k/a DAVID GILBERT and
CIRCLE SOCIETY, CORP.,

Defendants.

Case No. 2:19-cv-1697-JAD-DJA

**DECLARATION OF DANIELLE E.
KARST IN SUPPORT OF PLAINTIFF
CFTC'S NOTICE OF DEFENDANTS'
NON-COMPLIANCE WITH THE
COURT'S CIVIL CONTEMPT ORDER**

I, Danielle E. Karst, hereby declare as follows:

1. I am counsel for Plaintiff Commodity Futures Trading Commission ("Plaintiff" or "CFTC") in this action and have personal knowledge of the facts stated herein.

2. I am familiar with the litigation and contempt proceedings in the above-captioned matter. I submit this Declaration in support of the CFTC's Notice of Defendants David Saffron ("Saffron") and Circle Society, Corp.'s ("Circle Society") (collectively, "Defendants") Non-Compliance with the Court's Civil Contempt Order ("Civil Contempt Order" or "Order," ECF No. 51).

3. Pursuant to Saffron's request and representations at the January 24, 2020 Contempt Hearing, on January 29, 2020, I emailed Saffron a link to the CFTC's file-transfer-

1 protocol (“FTP”) site to enable him to upload Defendants’ documents and an accounting of
2 assets. *See* Email from D. Karst dated January 29, 2020, attached to this Declaration as Exhibit
3 A. On January 29, 2020, Saffron responded to my email: “Thank you received email Regards
4 David Saffron.” *See* Email from D. Saffron dated January 29, 2020, attached as Exhibit A.

5 4. On January 30, 2020, I emailed Saffron a copy of the Court’s January 30, 2020
6 Civil Contempt Order and reminded him of his obligations pursuant to the Order. *See* Email
7 from D. Karst dated January 30, 2020, attached as Exhibit B.

8 5. On February 4, 2020, I emailed Saffron to remind him of his obligations pursuant
9 to the Civil Contempt Order, including the February 7, 2020 deadline for documents, an
10 accounting of assets, and written responses to the questions set forth in the Civil Contempt
11 Order. *See* Email from D. Karst dated February 4, 2020, attached as Exhibit C.

12 6. On February 6, 2020, I received an email from Saffron in response to my earlier
13 January 29, 2020 email. Saffron stated, “sent info to link please confirm regards David Saffron.”
14 *See* Email from Saffron dated February 6, 2020, attached as Exhibit E. On the same day, Saffron
15 produced three files to the CFTC via the CFTC’s FTP site which included: (1) a letter to the
16 CFTC dated February 6, 2020; (2) an Excel spreadsheet described by Saffron as a “partially
17 restored client list”; and (3) a blank Protective Order template.

18 7. In his February 6, 2020 letter, Saffron stated:

19 Attention:

20 CFTC please confirm this information will be covered by a standard protective
21 order, where I may designate materials as “confidential” or “highly confidential”.

22 I would like you to sign this before I send any of the asset information I am
23 including a confidential partially restored client list. , [sic] and I want to be
24 assured that I will avoid possible issues regarding the disclosure of confidential
25 and highly confidential information.
26
27
28

1 If you do not have a standard from [sic] i have included on in [sic] this email!

2 Regards

3 David Saffron
4 2/6/2020

5 Letter from D. Saffron dated February 6, 2020, attached as Exhibit D.

6 8. The Excel file titled “Highly Confidential” and described by Saffron as a
7 “partially restored client list,” contains approximately 1,242 customer names. The spreadsheet
8 contains no column headings but is comprised of three columns of information which appear to
9 list a customer name, a customer email address, and a virtual currency address.

10 9. On February 6, 2020, I responded to Saffron’s request for the CFTC to “sign” a
11 protective order designating “materials as ‘confidential’ or ‘highly confidential.’” *See* Email
12 from D. Karst dated February 6, 2020, attached as Exhibit E. I stated, in relevant part, that the
13 Civil Protective Order does not provide for any such agreement or protective order, and that the
14 CFTC is unable to enter into any agreement that varies the terms of the Order. In addition, I
15 reiterated that Defendants are obligated to fully comply with all terms of the Court’s December
16 6, 2019 Preliminary Injunction Order and January 30, 2020 Civil Contempt Order. *See id.* To
17 date, I have not received any response to my February 6, 2020 email.
18

19 10. Based on the above, the CFTC has not received any of the following items as
20 required by the Civil Contempt Order: (a) all of Defendants’ books, records, and other
21 documents; (b) a full accounting of each Defendant’s assets; and (c) written responses to the
22 questions set forth in the Civil Contempt Order (ECF No. 51).
23

24 I declare under penalty of perjury that the foregoing is true and correct.

25 Executed on February 8, 2020.

26
27 /s/ Danielle E. Karst